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11
12 IN THE UNITED STATES DISTRICT COURT FOR THE
13 DISTRICT OF NEVADA

14 UNITED STATES OF AMERICA,)

15 Plaintiff,)

16 v.)

17 BILL SUNGA MODINA, d/b/a 5M Financial,)
18 and d/b/a 6M Financial)

19 Defendant.)
20

Case No. 2:14-cv-00474-JAD-PAL

**REPORT OF FINDINGS AND
RECOMMENDATION**

21 This matter comes before the Court on the United States' Motion for Default Judgment
22 and Permanent Injunction. The defendant, Bill Sunga Modina, individually, and d/b/a 5M
23 Financial and 6M Financial. ("Modina"), was properly served and has failed to appear in this

1 action. Entry of default was made against Modina on May 23, 2014. Having considered the
2 motion, the file, and the applicable law, the Court finds that default judgment against Modina is
3 appropriate. The Court further makes the following findings of fact and conclusions of law and
4 recommends a permanent injunction be entered against Modina.

5 The Court finds that Modina continually and repeatedly engaged in conduct subject to
6 penalty under 26 U.S.C. §§ 6694 and 6695 and other fraudulent conduct that substantially
7 interferes with the administration of tax laws, and that injunctive relief is appropriate under 26
8 U.S.C. § 7407. The Court further finds that because such conduct was continual and repeated,
9 and because a narrower injunction would not be sufficient to deter Modina's interference with
10 the proper administration of the internal revenue laws, that Modina should be enjoined from
11 further acting as federal tax return preparer under 26 U.S.C. § 7407.

12 The Court further finds that Modina engaged in conduct that interferes with the
13 enforcement of the internal revenue laws. Therefore, the Court finds that injunctive relief is
14 appropriate to prevent recurrence of such conduct pursuant to 26 U.S.C. § 7402(a).

15 Based on the foregoing, **IT IS HEREBY RECOMMENDED** that Bill Sunga
16 Modina, and all those in active concert or participation with him, is permanently enjoined
17 from directly or indirectly from:

- 18 1. Acting as federal tax return preparers, or requesting, assisting in, or directing the
19 preparation or filing of federal tax returns, amended returns, or other related
20 documents or forms for any person or entity other than themselves;
- 21 2. Preparing or assisting in preparing or filing federal tax returns, amended returns, or
22 other related documents or forms that they know or reasonably should know will
23 result in an understatement of tax liability or the overstatement of federal tax refunds;

- 1 3. Preparing returns for customers and failing to provide identifying numbers as
2 required under 26 U.S.C. § 6109(a)(4);
- 3 4. Preparing returns for customers and failing to maintain copies of those returns, or a
4 list of those returns by taxpayer identification number as required by 26 U.S.C. §
5 6107(b);
- 6 5. Misrepresenting experience or education as a tax preparer;
- 7 6. Engaging in any other activity subject to penalty under 26 U.S.C. §§ 6694 and 6695
8 or any other penalty provision in the Internal Revenue Code; and
- 9 7. Engaging in any conduct that substantially interferes with the proper administration
10 and enforcement of the internal revenue laws.

11 **IT IS FURTHER RECOMMENDED THAT:**


- 12 8. Pursuant to 26 U.S.C. §§ 7402(a) and 7407, Modina is required, within 30 days of
13 entry of the injunction, contact by United States mail and, if an email address is
14 known, by email, all persons for whom he prepared a federal tax return, amended
15 return, or any other federal tax form since January 1, 2008, to inform them of the
16 permanent injunction entered against him, and include a copy of the Court's
17 permanent injunction order, but no other documents or enclosures unless agreed to by
18 counsel for the United States or approved by the Court, and file with the Court a
19 sworn certificate stating that he has complied with this requirement;
- 20 9. Pursuant to 26 U.S.C. §§ 7402(a) and 7407, Modina is required to produce to counsel
21 for the United States within 30 days a list that identifies by name, social security
22 number, address, e-mail address, telephone number, and tax period(s) all persons for
23 whom he prepared federal tax returns or claims for refund since January 1, 2008;

1 10. Pursuant to 26 U.S.C. §§ 7402(a) and 7407, Modina is required to provide a copy of
2 the Court's order to all of the principals, officers, managers, employees, and
3 independent contractors of his tax return preparation business within three days of the
4 Court's order, and provide to counsel for the United States within 30 days a signed
5 and dated acknowledgment or receipt of the Court's order for each person to whom he
6 provided a copy of the Court's order;

7 11. The United States is entitled to conduct discovery to monitor Modina's compliance
8 with the terms of this permanent injunction order; and

9 12. This Court retains jurisdiction over Modina and this action to enforce any permanent
10 injunction entered against him.

11 **DATED** this 24th day of March, 2015.

12
13 
14 Peggy A. Leen
United States Magistrate Judge

15
16 **Notice**

17 These findings and recommendations are submitted to the United States District Judge
18 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within
19 fourteen days after being served with these findings and recommendations, any party
20 may file written objections with the court. Pursuant to Local Rule of Practice (LR) IB
21 3-2(a), any party wishing to object to the findings and recommendations of a
22 magistrate judge shall file and serve *specific written objections* together with points
23 and authorities in support of those objections, within fourteen days of the date of
service of the findings and recommendations. The document should be captioned
"Objections to Magistrate Judge's Findings and Recommendations." The parties are
advised that failure to file objections within the specified time may waive the right to
appeal the district court's order. *See Martinez v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).
The points and authorities filed in support of the specific written objections are subject
to the page limitations found in LR 7-4.